

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated January 12, 2007. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-11 were pending in the Application. Claims 12-15 are added by this amendment. Claims 1, 4, 7, 9 and 11 are independent claims.

By means of the present amendment the claims 1-11 have been amended for better conformance to U.S. practice. For example, amendments include beginning independent claims with "A" and beginning the dependent claims with "The". These amendments were not introduced to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

A New Abstract is submitted herewith in Appendix A. Please delete the Abstract previously submitted and substitute the New Abstract from Appendix A into the current application. It is respectfully submitted that the New Abstract is in more suitable US form. Consideration and acceptance of the New Abstract is respectfully requested.

A Substitute Specification is submitted herewith in Appendix B in a clean version without showing any markings indicating the changes. A Substitute Specification is submitted herewith in Appendix C showing markings indicating the changes that are present in the clean version. Please delete the specification previously submitted and substitute the Substitute Specification from Appendix B into the current application. It is respectfully submitted that the Substitute Specification corrects informalities noted upon a detailed review of the specification and is in more suitable US form. Consideration and acceptance of the Substitute Specification is respectfully requested.

It is respectfully submitted that with the changes provided in the New Abstract and Substitute Specification, now new matter is introduced.

In the Office Action, the drawings are objected to for not showing a feature of claim 6. FIG. 2 is also objected to for failing to functionally label each block element. In response, a Replacement Drawing Sheet including a replacement FIG. 2 is enclosed in Appendix D. Further, the specification has been amended for conformance with the replacement FIG. 2 as provided in the Substitute Specification. It is respectfully submitted that

the drawing is now in proper form and a notice to that effect is respectfully requested.

Claims 1-6 and 9-11 are objected to for certain informalities. In response, claims 1-6 and 9-11 have been amended to correct the informalities noted by the Examiner. Accordingly, withdrawal of the objection to claims 1-6 and 9-11 is respectfully requested.

In the Office Action, the Examiner indicated that claim 4 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicants gratefully acknowledge the indication that claim 4 contains allowable subject matter. Claim 4 has been rewritten in independent form including the limitations of the base claim and intervening claims and therefore withdrawal of this objection and allowance of claim 4 is respectfully requested. Furthermore, each of the independent claims 1, 7, 9, 11 has been amended to contain the subject matter indicated as allowable in claim 4. Accordingly, it is respectfully requested that independent claim 1, 7, 9 and 11 also be allowed.

Further, it is respectfully submitted that claims 2-3, 5-6, 8, 10 and 12-15 respectively depend from one of claims 1, 7, 9 and 11 and accordingly are allowable for at least this reason as well as

for the separately patentable elements contained in each of said claims.

For example, in regard to the rejection of claim 10, Ohira discloses on column 6, lines 18-19 (emphasis added), "separated beams are simultaneously irradiated to the photoresist layer." The Office Action then states on page 5, paragraph 2 that (emphasis added), "simultaneous controlling writing the marks and secondary marks during one scan of the selected part of the track anticipates [claim 10 because it shows] controlling writing the marks is performed at a first instance in time and writing the secondary marks is performed at a different instance in time during two separate scans of the selected part of the track." The Applicants respectfully disagree.

For this anticipation rejection to stand, each and every element of the claimed system must be disclosed by the reference. A prior art reference anticipates the claimed system under 35 U.S.C. § 102 only if every element of a claimed system is identically shown in that single reference, arranged as they are in the claims (MPEP § 2131; In re Bond, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)). Anticipation is only shown where each and every limitation of the claimed system is

found in a single prior art reference (MPEP § 2131; In re Donohue, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985)).

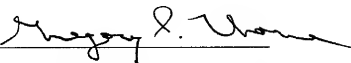
Because Ohira does not disclose a "controlling writing the marks is performed at a first instance in time and writing the secondary marks is performed at a different instance in time during two separate scans of the selected part of the track", as recited in dependent claim 10, Ohira cannot anticipate the claim.

Moreover, Ohira disclosing teaching simultaneously irradiating a beam to a resist layer teaches away from writing the marks at a first instance and writing the secondary mark at a different instance in time as required by claim 10. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
March 29, 2007

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101